

To: McWhirter, Lisa[McWhirter.Lisa@epa.gov]
From: Boomgaard, Craig
Sent: Tue 12/3/2013 7:43:15 PM
Subject: FW: MOA
MEMORANDUM OF AGREEMENT_08302013(Emergency Inspection & Enforcement).docx

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From: Connors, Kevin C. [mailto:kcconnors@nd.gov]
Sent: Friday, August 30, 2013 10:05 AM
To: Boomgaard, Craig
Subject: MOA

Craig,

Thank you for making that conference call happen on your end. I was hoping to reach a conclusion, but that may have been too optimistic. Please see attached MOA with yellow highlights indicating additional language.

Page 3 – Section II. Policies and Agreements; subsection H. General Provisions:

Nothing in this MOA shall be construed to limit or broaden the authority of the EPA to take action pursuant to Sections 1421, 1422, 1423, 1424, 1425, 1431 or other sections

of the SDWA.

Note: This may be a simple fix to satisfy both the enforcement and emergency inspection SDWA citations.

Page 5 – Section V. Enforcement; subsection A. General:

The EPA shall be notified of any enforcement actions taken by the Commission. Failure by the Commission State to initiate appropriate enforcement action against a substantive violation may be the basis for EPA's determination that the Commission State has failed to take timely enforcement action. Such a determination shall result in EPA filing an action to enforce the Commission's rules consistent with Section 1423 of the SDWA.

Page 7-8 – Section VI. EPA Oversight; subsection I. Inspection and Surveillance by EPA:

The Regional Administrator may select Class VI injection well facilities and activities within the State for EPA inspection. EPA may conduct such inspections jointly with the Commission. Upon request of the Regional Administrator to participate in occasional compliance evaluation inspections scheduled by the Commission, the Commission shall give the Regional Administrator adequate notice of inspections scheduled by the Commission during the next quarterly reporting period. The Regional Administrator may also choose to conduct inspections independently of the Commission's schedule. In such cases, the EPA shall notify the Commission of any proposed Class VI injection well facility inspection within the State of North Dakota at least seven (7) days before any inspection that EPA determines to be necessary. This procedure will allow coordination of scheduling and allow joint inspections. This procedure may be waived for emergency situations pursuant to section 1431 of the SDWA.

I look forward to a prompt EPA response and hopefully a final signed MOA.

Thanks Craig. Have a great weekend.

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